



Revision of the Victims' Rights Directive

European Disability Forum
October 2023

**Proposed amendments to the revision of the Victims'
Rights Directive**

Funded by the European Union. Views and opinions expressed are however those of the author(s) only and do not necessarily reflect those of the European Union or the European Commission.

Neither the European Union nor the granting authority can be held responsible for them



Table of Contents

Table of Contents	2
Introduction.....	2
Executive Summary	2
Proposed amendments.....	3
Article 5a: Reporting of crime.....	3
Article 22: Individual assessment of victims to identify specific support and protection.....	4
Article 26c: Rights of victims with disabilities	4
Article 28: Provision of data and statistics.....	6
Recitals 6 and 16	6
Document credits	9

Introduction

This document presents amendments to the proposal for a [Directive amending Directive 2012/29/EU establishing minimum standards on the rights, support and protection of victims of crime](#) (Victims' Rights Directive).

It should be read along with [EDF inputs to the consultation of the European Commission on EU rules on victims' rights](#). Further information on victims' rights and victims with disabilities is available on our [dedicated webpage](#).

The European Disability Forum

The European Disability Forum is an independent NGO that represents the interests of 100 million Europeans with disabilities. EDF is a unique platform which brings together representative organisation of persons with disabilities from across Europe. EDF is run by persons with disabilities and their families. We are a strong, united voice of persons with disabilities in Europe.

Executive Summary

The European Disability Forum welcomes the proposal of the European Commission to revise the Victims' Rights Directive, including by further protecting the rights of victims with disabilities.

We propose the following amendments to further improve the Directive in line with the UN Convention on the Rights of Persons with Disabilities ratified by the EU and all its Member States:

- **Article 5a(3)**: include measures for reporting crimes in closed settings and institutions where persons with disabilities may be living
- **Article 22, new paragraph 3a**: remove the broad reference to the “mental health issue” of the offender, in order to avoid bias and stigmatisation linked to mental health and psychosocial disabilities
- **New Article 26c**: include a reference to procedural accommodation to be granted upon the request of victims with disabilities to ensure their inclusion in the justice process
- **Article 28**: require the collection of data disaggregated by the disability of the victims, in order to effectively implement and monitor the directive when it comes to victims with disabilities
- Edits **recitals 6 and 16** to mirror the proposals made in articles 5a(3) and 26c

Proposed amendments

Article 5a: Reporting of crime

Commission proposal	Proposed amendments
<p>3. Member States shall ensure that victims can effectively report crimes committed in detention facilities. Detention facilities shall include in addition to jails, detention centres and holding cells for suspects and accused, specialised detention facilities for applicants of international protection and pre-removal centres, and accommodation centres where applicants and beneficiaries of international protection are located.</p>	<p>3. Member States shall ensure that victims can effectively report crimes committed in detention facilities and other closed settings. Detention facilities shall include in addition to jails, detention centres and holding cells for suspects and accused, specialised detention facilities for applicants of international protection and pre-removal centres, and accommodation centres where applicants and beneficiaries of international protection are located. Other closed settings include residential institutions and psychiatric institutions.</p>
<p style="text-align: center;">Justification:</p> <p>Article 5a paragraph 3 requires Member States to take measures for the reporting of crimes committed in detention facilities. EDF calls for the EU to also include measures to facilitate reporting of crimes in other closed settings where persons with disabilities and older persons may be living, including but not limited to, residential and psychiatric institutions. Persons</p>	

living in institutions are at higher risk of crimes, including violence, and face additional barriers to identify and report them. See for example: [Inclusion Europe’s “Life after violence”](#) report regarding violence based by women with intellectual disabilities in residential institutions.

Article 22: Individual assessment of victims to identify specific support and protection

Commission proposal	Proposed amendments
<p>New 3a. In the context of the individual assessment, particular attention shall be paid to the risk emanating from the offender, including the risk of violent behaviour and of bodily harm, the use of weapons, involvement in a group of organised crime, drug or alcohol abuse, child abuse, mental health issues, behaviour of stalking, expression of threats or hate speech.</p>	<p>3a. In the context of the individual assessment, particular attention shall be paid to the risk emanating from the offender, including the risk of violent behaviour and of bodily harm, the use of weapons, involvement in a group of organised crime, drug or alcohol abuse, child abuse, <i>mental health issues</i>, behaviour of stalking, expression of threats or hate speech.</p>

Justification:

EDF strongly supports specific support and protection measures for victims of crimes. However, we are very concerned by the broad reference of mental health issues among the “risks emanating from the offender”. Persons experiencing mental health problems, including people with psychosocial disabilities, continue to experience a lot of discrimination due to stigma linked to mental health, including being perceived as “dangerous”. EDF calls for the removal of the reference to the mental health status of the offender.

This bias is existent across Europe and the world. In reality, [studies](#) show that people with mental health problems are more likely to be victims of violence than the perpetrator.

Only concrete factors linked to the dangerousness of a person should be included. Combating mental health related bias is among the actions of the [Communication of the European Commission on a comprehensive mental health approach](#).

Article 26c: Rights of victims with disabilities

Commission proposal	Proposed amendments

<p>1. Member States shall ensure that victims with disabilities benefit on equal basis with others from electronic means of communication as referred to in Article 26b of this Directive by complying with the accessibility requirements set out in Annex I to Directive (EU) 2019/882 of the European Parliament and of the Council .</p> <p>2. Member States shall ensure that victims with disabilities can access on equal basis with others, any procedure as well as the support services and protection measures covered by this Directive in line with the accessibility requirements set out in Annex I to Directive (EU) 2019/882.</p> <p>Member States shall ensure that reasonable accommodation is provided for victims with disabilities upon request.</p>	<p>1. Member States shall ensure that victims with disabilities benefit on equal basis with others from electronic means of communication as referred to in Article 26b of this Directive by complying with the accessibility requirements set out in Annex I to Directive (EU) 2019/882 of the European Parliament and of the Council .</p> <p>2. Member States shall ensure that victims with disabilities can access on equal basis with others, any procedure as well as the support services and protection measures covered by this Directive in line with the accessibility requirements set out in Annex I to Directive (EU) 2019/882.</p> <p>Member States shall ensure that reasonable accommodation is and procedural accommodations are provided for victims with disabilities upon request.</p>
--	---

Justification:

EDF welcome the proposed article 26c on the rights of victims with disabilities.

We recommend adding a reference to the provision of procedural accommodations upon request, to ensure the rights of victims during the judicial process.

Procedural accommodations are measures aimed at removing barriers in accessing justice, for example measures needed to ensure communication with the court. Contrary to reasonable accommodations, procedural accommodations cannot be exempted based on “undue burden” including costs, as they are necessary to ensure the fundamental right to a fair trial. The right to right to an effective remedy and to a fair trial is protected under Article 47 of the Charter of Fundamental Rights of the European Union. The provision of procedural accommodation is an obligation under [article 13 of the CRPD](#).

Procedural accommodations are cited among the measures necessary for access to justice in the European Parliament’s [report “Towards equal rights for persons with disabilities”](#) adopted on 13 December 2022.

More information on procedural accommodation can also be found in the [International Principles and Guidelines on Access to Justice for Persons with Disabilities](#).

Article 28: Provision of data and statistics

Commission proposal	Proposed amendments
<p>1. Each Member State shall take the necessary measures to establish a system for the collection, production and dissemination of statistics on victims of crime. The statistics shall include data relevant to the application of national procedures on victims of crime, including at least the number and type of reported crimes and the number, the age, sex of the victims and the type of the offence. They shall also include information on how victims have accessed the rights set out in this Directive.</p>	<p>1. Each Member State shall take the necessary measures to establish a system for the collection, production and dissemination of statistics on victims of crime. The statistics shall include data relevant to the application of national procedures on victims of crime, including at least the number and type of reported crimes and the number, the age, sex and disability of the victims and the type of the offence. They shall also include information on how victims have accessed the rights set out in this Directive.</p>
<p>Justification:</p> <p>Victims with disabilities are recognised among groups of victims that may require specific actions and support. The proposal specifically pay attention to victims with disabilities by adding article 26c. In order to monitor how the Directive is implemented Member States shall be required to collect data disaggregated by disability.</p> <p>In the past, the EU agreed on rules to collect data and statistics disaggregated by disability in relation to persons and households: see Regulation (EU) 2019/1700.</p>	

Recitals 6 and 16

Commission proposal	Proposed amendments
<p>(6) Crime reporting in the Union should be improved to fight impunity, avoid repeated victimisation and ensure safer societies. It is necessary to fight public insensitivity towards crime, by encouraging people who witness the crime to report crimes and assist victims and by creating safer environments for</p>	<p>(6) Crime reporting in the Union should be improved to fight impunity, avoid repeated victimisation and ensure safer societies. It is necessary to fight public insensitivity towards crime, by encouraging people who witness the crime to report crimes and assist victims and by creating safer environments for</p>

victims to report crime. For victims who are irregular migrants in the Union, safe environment to report crime means reducing fear of return procedures being launched as a result of contacts with law enforcement authorities. The personal data of victims who are irregular migrants in the Union should not be transferred to the competent migration authorities at least until the completion of the first individual assessment as referred to in Article 22 of Directive 2012/29/EU. Reporting the crime and participating in criminal proceeding under Directive 2012/29/EU do not create any rights regarding the residence status of the victim, neither have any suspensive effect when determining their residence status. All vulnerable victims, such as child victims or victims in detention, who are in a situation of intimidation, or are otherwise dependent from the offender or whose mobility is limited should be able to report crime in conditions that take into account their particular situation and in line with protocols specifically set up for this purpose.

victims to report crime. For victims who are irregular migrants in the Union, safe environment to report crime means reducing fear of return procedures being launched as a result of contacts with law enforcement authorities. The personal data of victims who are irregular migrants in the Union should not be transferred to the competent migration authorities at least until the completion of the first individual assessment as referred to in Article 22 of Directive 2012/29/EU. Reporting the crime and participating in criminal proceeding under Directive 2012/29/EU do not create any rights regarding the residence status of the victim, neither have any suspensive effect when determining their residence status. All vulnerable victims, such as child victims, **victims living in closed-settings including persons with disabilities or older people living in residential institutions**, or victims in detention, who are in a situation of intimidation, or are otherwise dependent from the offender or whose mobility is limited should be able to report crime in conditions that take into account their particular situation and in line with protocols specifically set up for this purpose.

(16) The Union and the Member States are parties to the UN Convention on the Rights of Persons with Disabilities and are bound by its obligations to the extent of their respective competences. Under Article 13 of that Convention the States Parties are obliged to ensure effective access to justice for persons with disabilities on an equal basis with others, hence the needs to ensure accessibility and provide reasonable accommodation so that victims with disability enjoy their rights as victims on equal basis with others. The accessibility requirements set in Annex I to Directive (EU) 2019/882 of the European Parliament and of the Council can facilitate the implementation of that Convention and ensure that the victims'

(16) The Union and the Member States are parties to the UN Convention on the Rights of Persons with Disabilities and are bound by its obligations to the extent of their respective competences. Under Article 13 of that Convention the States Parties are obliged to ensure effective access to justice for persons with disabilities on an equal basis with others, hence the needs to ensure accessibility and provide reasonable accommodation **as well as procedural accommodation** so that victims with disability enjoy their rights as victims on equal basis with others. **Procedural accommodations consist in all necessary and appropriate modifications and adjustments in the context of access to justice, where needed in a particular case,**

rights laid down by Directive 2012/29/EU are accessible for persons with disabilities.

to ensure the participation of persons with disabilities on an equal basis with others. The accessibility requirements set in Annex I to Directive (EU) 2019/882 of the European Parliament and of the Council can facilitate the implementation of that Convention and ensure that the victims' rights laid down by Directive 2012/29/EU are accessible for persons with disabilities.

Justification:

EDF proposed to add reference to closed settings in recital 6 and to procedural accommodation in recital 16 in line with the proposals made in articles 5a(3) and 26c.

Document credits

This document was prepared by Marine Uldry, EDF Human Rights Policy Coordinator: marine.uldry@edf-feph.org.



The European Disability Forum
Mundo Madou
Avenue des Arts 7-8
1210 Brussels, Belgium.

www.edf-feph.org

info@edf-feph.org

This publication has received financial support from the European Union. The information contained in this publication does not necessarily reflect the official position of the European Commission.

